

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CYNTHIA ANN REDUS-TARCHIS,
FREDRIC and BONNIE OLIVER, and
MICHAEL PATTI,

Plaintiffs,

v.

NEW YORK LIFE INVESTMENT
MANAGEMENT LLC,

Defendant.

Civil No. 2:14-cv-07991-WHW-CLW

Filed Electronically

JOINT STIPULATION AND [PROPOSED] ORDER

WHEREAS, on December 23, 2014, Plaintiffs filed a Complaint asserting claims against Defendant New York Life Investment Management LLC pursuant to Section 36(b) of the Investment Company Act of 1940, 15 U.S.C. § 80a-35(b) (“Section 36(b)”), on behalf and for the benefit of the MainStay Marketfield Fund (the “Marketfield Fund”), the MainStay Large Cap Growth Fund (the “Large Cap Fund”), and the MainStay High Yield Corporate Bond Fund (the “Corporate Bond Fund”); and

WHEREAS, on April 20, 2015, Plaintiffs filed an Amended Complaint asserting claims against Defendant pursuant to Section 36(b) on behalf of and for the benefit of the Marketfield Fund, the Large Cap Growth Fund, the Corporate Bond Fund, and the MainStay High Yield Opportunities Fund (the “High Yield Opportunities Fund”) (collectively, the “Funds”); and

WHEREAS, on May 6, 2015, Plaintiffs filed a Second Amended Complaint asserting claims against Defendant pursuant to Section 36(b) on behalf of and for the benefit of each of the Funds; and

WHEREAS, Section 36(b)(3) provides that “[n]o award of damages shall be recoverable for any period prior to one year before the action was instituted,” but does not address the recoverability of damages for any period after an action has been instituted; and

WHEREAS, the parties desire to avoid the necessity of Plaintiffs filing a new complaint seeking to recover damages for the period from May 7, 2015 through May 6, 2016 based upon substantially the same facts and claims previously alleged in this action;

NOW, THEREFORE, the parties hereby STIPULATE AND AGREE by and through their undersigned counsel and subject to the Court’s approval that:

1. Any claims and damages alleged in this action regarding the fees charged to the Marketfield Fund, the Large Cap Growth Fund, and the Corporate Bond Fund encompass the period December 24, 2013 up to and including May 6, 2016;

2. Any claims and damages alleged in this action regarding the fees charged to the High Yield Opportunities Fund encompass the period April 21, 2014 up to and including May 6, 2016; and

3. Nothing in this Stipulation shall be deemed a waiver of any other claims or defenses any party may have in this action or shall be deemed a waiver of a party’s obligation to prove each of the elements of any claim or defense for the period the party is asserting that claim or defense.

Dated: May 17, 2016

/s/ Liza M. Walsh

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SO ORDERED.

/s/ Robert L. Lakind

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Dated: May __, 2016

Honorable William H. Walls, U.S.D.J.